

**IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS
ADMINISTRATIVE ORDER 2005-6**

COURT RECORD DISSEMINATION POLICY

PURPOSE:

To establish a procedure for the dissemination of municipal court records.

POLICY:

Municipal Court records will be released as required by state law and city policy. The Court Administrator, shall be the designated Records Custodian for the Municipal Court and the Supervisor, Court Services, shall be the designated Records Custodian for Court Services.

REFERENCES:

City of Overland Park COP 218
City of Overland Park Resolution No. 3158
K.S.A. §12-4108 and amendments thereto
K.S.A. §12-4516; K.S.A. §12-4516a and amendments thereto
K.S.A. §45-215 et seq., and amendments thereto

PROCEDURE:

COP 218 requires that records custodians “*Supervise all inspections, abstracting and copying of the open public records of which they are the custodian and for which they are responsible.*” Although the vast majority of records maintained by the Overland Park Municipal Court are open records, there is some information in said files that may be of such a personal nature that it must be redacted from the file prior to dissemination. In addition, some information is statutorily prohibited from disclosure. Therefore, all requests for municipal court records must go through the Court’s records custodian or her designee.

In an effort to guarantee that non-public information is not disclosed, access to aggregate and compiled data from the Full Court® case-management database is not allowed without specific review and approval from the Court’s record custodian. The custodian shall keep a master log of such requests and dissemination. If the request involves a specific computer report be run, the records custodian will keep a copy of the report if it is a one-time unique request, or a copy of representative sample of any reports which are regularly provided, which shall become a public record of the Court and open to public inspection or dissemination upon request. Requests from other city departments for court records that are not open to the public must be accompanied by an appropriate subpoena or court order, from either the district court or the municipal court. Only court personnel or information technology personnel under the Court’s direction are allowed to query the Full Court® case-management database.

The following rules shall apply to all records requests:

1. Request must be in writing.

In an effort to adequately document the request and to clarify exactly what records are sought, all requests for court records must be in writing. Requesting persons must complete the City of Overland Park Municipal Court "Request for Record Inspection and/or Copy." This can be completed in person or by mail or fax. A copy is attached hereto as Appendix D.

2. The Requester must present valid identification.

If the Requester is submitting the request through the mail or fax, a copy of valid identification must be attached.

3. Records must be provided as soon as possible, but in no event later than three business days from the date of the request.

The Open Records Act requires that if it is going to take longer than 3 business days to produce records or to decide if records are open for inspection, the requesting party must be notified, in writing, by the records custodian of the reasons for the delay. Therefore, if a request is one for which the court employee is unclear regarding whether or not to copy the records or will not be able to provide the information within three business days, the court employee shall forward the request to the Court Administrator, the Supervisor, Court Services or the Presiding Judge immediately. They will handle completion of the City of Overland Park Municipal Court "Record Inspection and/or Copy Delay Notice" attached herein as Appendix E.

4. Court records are never to be removed from the court area for purposes of copying or viewing. Persons viewing court records should be under the constant observation of court personnel to prevent theft or alteration.

5. Fees for copying are to be assessed pursuant to the City fee schedule.

However, if a request is for 5 or fewer total copies and requires no more than 6 minutes to fill, no charge will be assessed. Departments within the City making such requests will be exempt for this fee.

6. Fees must be estimated prior to providing the record and said fees are due at the time the records are provided.

As further guidance in the release of court records, Appendix A and B, attached, contain a sample of open and closed records in the possession of the Court.

7. Persons requesting expunged records must complete a SUPPLEMENTAL REQUEST FOR RECORD INSPECTION AND/OR COPY OF EXPUNGED RECORDS.

Persons requesting court records should be asked, before any search is started, if the person believes he or she is entitled to any expunged records that may exist. If the person states that he or she is entitled to expunged records, he or she shall be provided with a Supplemental Request form to designate the exception under which the request is made. Court personnel shall not reveal the existence of such a sealed record unless the person has completed the supplemental request and is entitled to such information.

DATED THIS 20th DAY OF DECEMBER, 2005 and amended May 3, 2007 and July 24, 2008.

Karen Arnold-Burger
Presiding Judge
Overland Park Municipal Court

Appendix A

INFORMATION THAT IS CLOSED TO THE PUBLIC.

WARNING: IF THIS INFORMATION APPEARS ON AN OTHERWISE OPEN RECORD, THE INFORMATION MUST BE REDACTED FROM THE COPY OF THE RECORD PRIOR TO GIVING IT TO THE REQUESTING PARTY. The following applies to information closed to the PUBLIC.

1. Social security numbers, including driver's license numbers that mirror social security numbers.
2. Date of Birth
3. Financial account numbers
4. Alcohol and drug evaluations
5. Psychiatric evaluations
6. Records of alcohol, drug or psychiatric treatment, except for statements that the defendant was ordered to complete treatment and did or did not complete same.
7. ALERT print outs
8. NCIC print outs
9. Certified Driving Records
10. Information regarding an active warrant, unless the employee reveals the existence of the warrant in an effort to encourage the defendant to voluntarily surrender on same.
11. Police Investigative Reports or any information received from I-Leads (Requester should be directed to the Police Department)
12. Any medical reports, including Lab Corp reports on UA's.
13. Expunged records, unless person can show that he or she fits under the category of someone entitled to expunged information. Once the expungement petition is filed, the Court file must be separated from other records of the Court and its very existence shall not be disclosed except to the judge, court staff, prosecuting attorney and arresting law enforcement agency, or anyone authorized by Court order.
Expunged records may only be disclosed to:
 - a. the person whose record was expunged
 - b. private detective agency or private patrol operator and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged
 - c. a court, upon a showing of a subsequent conviction of the person whose record has been expunged
 - d. the secretary of SRS or his or her designee for the purpose of obtaining information relating to the person whose record has been expunged's employment in an institution defined in K.S.A. 76-12a01 and amendments thereto
 - e. a person entitled to such information pursuant to the terms of the expungement order

- f. a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense
- g. the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged
- h. the Kansas Lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery;
- i. the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas | pari-mutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission;
- j. the state gaming agency, and the request is accompanied by a statement that the request is being made to aid in determining qualifications; (A) to be an employee of the state gaming agency; or (B) to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
- k. the Kansas securities commissioner, or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged; or
- l. the division of motor vehicles or any governmental agency involved in the review of an application for a commercial driver's license; or
- m. a law enforcement agency or the commission on peace officer standards and training to investigate an applicant for a position as a law enforcement officer; or
- n. the attorney general for review of an application for a license to carry a concealed weapon; or
- o. the Kansas sentencing commission.

Appendix B

INFORMATION THAT IS CLEARLY OPEN TO THE PUBLIC

**(REDACT DOB, SSN AND FINANCIAL ACCOUNT INFORMATION, WHEREVER
THEY APPEAR)**

1. Complaint and Notice to Appear
2. Bench Notes
3. Served Warrants
4. Bonding Forms
5. Notices of Court Appearances, Past and Future
6. Parole or Probation Documents
7. Diversion Agreement
8. Any and all Motions and Responses to Motions in the case
9. Telephoned Continuance Requests
10. DL Suspension Forms
11. Custody Slips/Release Orders
12. Correspondence from the Defendant
13. Victim Impact Statements, although identifying information may be redacted if such redaction is in the interest of the victim's safety
14. Plea and Sentencing Journal Entries
15. "No Contact" Orders
16. Any written order or decision of the Court
17. Subpoenas and requests for subpoenas

Appendix C

SUPPLEMENTAL REQUEST FOR RECORD INSPECTION AND/OR COPY OF EXPUNGED RECORDS CITY OF OVERLAND PARK, KANSAS

(To Be Attached to completed "Request for Record Inspection and/or Copy of Records")

CERTIFICATION

I understand that K.S.A. §12-4516 (2001) and K.S.A. §12-4516a (2001) provide limited circumstances under which expunged records may be disclosed. I am hereby requesting inspection and/or copy of any and all expunged records that may exist related to the original "Request for Record Inspection and/or Copy of Records" attached hereto. I am entitled to said records under the following exception to nondisclosure:

I am the person whose record was expunged

I represent a private detective agency or private patrol operator and this request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged.

I represent a court and have attached proof of a subsequent conviction of the person whose record has been expunged.

I represent the secretary of SRS or his or her designee and this request is for the purpose of obtaining information relating to the person whose record has been expunged's employment in an institution defined in K.S.A. 76-12a01 and amendments thereto.

I am a person entitled to such information pursuant to the terms of the expungement order, which is attached hereto.

I am a prosecuting attorney, and such request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense.

I represent the supreme court, the clerk or disciplinary administrator thereof, or the state board for admission of attorneys, and this request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged.

I represent the Kansas Lottery, and this request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery.

I represent the governor or the Kansas racing commission, or a designee of the commission, and this request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas I pari-mutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission.

I represent the state gaming agency, and this request is being made to aid in determining qualifications; to be an employee of the state gaming agency; or to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact.

I represent the Kansas securities commissioner, or a designee of the commissioner, and this request is being made in conjunction with an application for registration as a broker-dealer, agent, investment adviser or investment adviser representative by such agency and the application was submitted by the person whose record has been expunged.

SIGNATURE: _____

Your copy of this form is your receipt.

Note: The fact that you have been given this supplemental request does not mean that the party whose record is requested has any kind of an expunged record. It merely serves to request said record, if one exists.

Appendix D

**REQUEST FOR RECORD INSPECTION AND/OR COPY
CITY OF OVERLAND PARK, KANSAS**

Requester's Information

Name _____
Agency _____
Street Address _____
City, State, Zip _____
Day Phone _____ Fax _____

Defendant Information

Name _____
(First, Middle Initial, Last, & Suffix)
Possible Aliases _____
Date of Birth _____
___ Inspecting Records ___ Copies of Records
Method of Return: ___ Mail ___ Fax ___ In Person

***** ONE DEFENDANT PER FORM PLEASE ***ALL RECORDS WILL BE CERTIFIED UNLESS REQUESTED OTHERWISE*****

Case Information

Case Number, Violation Date, Charges

Case Number, Violation Date, Charges

Case Number, Violation Date, Charges

Records Sought

___ Entire Record ___ Disposition * ___ Case Summary**
Other _____

___ Entire Record ___ Disposition* ___ Case Summary**
Other _____

___ Entire Record ___ Disposition* ___ Case Summary**
Other _____

*Disposition includes a copy of the complaint/ticket, Judge's bench notes, waiver of counsel, sentencing journal entry, and close-out orders.
**Case Summary is a printout of case number, charges, violation date, finding, finding date, and sentencing information.

CHARGES: A charge for providing copies of public records is authorized by state law and has been established by the City Governing Body. These charges are set at a level to compensate the City for the actual costs incurred in honoring your request. The fee schedule established by the City is posted in this office.

CERTIFICATION

I understand that K.S.A. 45-230, as amended, provides that except to the extent otherwise authorized, "No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in and derived from public records."

I also understand that a violation of K.S.A. 45-230, as amended, is a Class C misdemeanor.

I hereby certify that I do not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

*****SIGNATURE** _____

Your copy of this form is your receipt

(To Be Completed by Record Custodian)

Date and Time of Request _____ AM PM Date and Time Access Provided _____ AM PM
The charge to your for copy(s) of the record(s) you request is: \$ _____ Records Custodian _____
___ Prepaid ___ Paid ___ Billed ___ Based on posted formula ___ Based upon non-office reproduction costs

Appendix E

**RECORD INSPECTION AND/OR COPY REQUEST DENIAL
OVERLAND PARK MUNICIPAL COURT**

To: _____
(Name of Requester)

(Address)

(City/State/Zip)

Your request, Dated _____, 20__ for (__ inspection) (__ copy(s)) of the following record(s) has been denied:

1. _____
2. _____
3. _____
(Title or Description of Record(s) Requested)

The undersigned record custodian has determined that:

____ The record requested, as described above, is not a record which is made, maintained, kept by or in the possession of this office, but may be obtainable at _____.

____ The record requested is not required to be disclosed under the Kansas Open Records Act _____ (cite section of Act relied upon).

____ Access to the record requested is restricted under federal or state law _____ (cite law relied upon).

____ No record was located in the Overland Park Municipal Court using the name and information provided on the records request form.

____ The original court documents were not required to be retained per Kansas law, and were destroyed pursuant to the Overland Park Municipal Court Record Retention Policy.

____ Other (specify) _____

The above-listed record(s) (is)(are) open public record(s) available for your inspection. However, your request for a copy of such record(s) is hereby denied, upon a finding by the undersigned record custodian that:

____ Any available method of mechanical reproduction would result in damage to the requested record.

It is your right to challenge this denial by means of a legal action brought in Johnson County District Court.

Records Custodian

Date: _____
Time: _____ AM PM